

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th Day of June 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION NO.5601/1994

BETWEEN:

Sri. B.K. Siddalingaiah,
s/o Sri B Kalaiah,
aged about 60 years,
r/a. Bijjahalli,
Kodihalli Hobli,
Kanakapura Tq.,
Bangalore Dist.

...PETITIONER

(By Sri. V. Narayanaswamy, Adv.)

AND:

1. State of Karnataka,
by its Secretary,
Revenue Dept.,
Vidhana Soudha,
Bangalore-1.
2. Land Tribunal,
Kanakapura Tq.,
by its Secretary, Tahsildar,
Kanakapura, Bangalore
Rural Dist., Bangalore.
3. Sri. Bole Gowda,
s/o Kari Madegowda,
r/a. Doddakabballi,
Kodihalli Hobli,
Kanakapura Tq.,
Bangalore Dist.,
4. Sri Muthegowda,
s/o Sri Kulla Muthe Gowda,
aged about 43 years,
Doddakabballi,
Kodihalli Hobli,
Kanakapura Tq.,
Bangalore Rural Dist.,

...RESPONDENTS

(By Sri. B.R. Srinivasagowda for R-4,
Smt. Bharathi Nagesh, AGA for R.1 & 2)

This Writ Petition which was earlier filed as Civil Petition u/s.151 of CPC r/w u/s.17 of the K.L.R. Act r/w articles 226 & 227 of the Constitution of India that for the reasons stated in the accompanying the affidavit that this Hon'ble Court be pleased to consider this application and the Appeal No.ALRA 1032/87 filed before the Land Reforms Appellate Authority, Bangalore (Rural) may be treated as Writ Petition, in view of the amendment to S.17 of the Land Reforms Act.

This Writ Petition coming on for hearing this day, the Court made the following:-

O R D E R

On the short ground this writ petition has to be allowed. The impugned order is not preceded by a proper, valid and legal enquiry required to be conducted by the Tribunal in conformity with Section 48A of the Karnataka Land Reforms Act, 1961 read with Rule 17 of the Karnataka Land Reforms Rules 1974 and Section 34 of the Karnataka Land Revenue Act, 1964.

2. The impugned order is not a speaking order. The Tribunal has proceeded to grant the

occupancy rights in respect of ^{Lands in question} ~~Form No. 7~~ ⁱⁿ in
favour of respondents 3 and 4. No valid
and cogent reasons are assigned except making
reference of the statement made by the petitioner
in the impugned order. The statement of the
petitioner is perused. The same is not recorded
in accordance with law. Hence, it is a fit and
proper case for this Court to remand the matter
to the Tribunal. Accordingly, the matter is
remanded to the Tribunal with a direction to
it to re-consider the entire case after affording
an opportunity to the petitioner and respondents
3 and 4 and dispose of the same in accordance
with law within six months from the date of
receipt of this order. No costs.

3. Smt. Bharathi Nagesh, learned Addl. Govt.
Advocate is permitted to file memo of appearance
within four weeks from today.

sk/-

bnv/-



Sd/-
JUDGE